

Report of the Strategic Director, Health & Wellbeing to the meeting of Executive to be held on 21 February 2023

BA

Subject: Consultation feedback and recommendations following the consultation on proposed changes to Adult Social Care Non-residential Charges.

Summary statement:

This report provides feedback following the consultation on the proposed changes to Adult Social Care Non-residential charges and makes recommendations based on the consultation feedback.

EQUALITY & DIVERSITY:

The Equality Act 2010 sets out the duty for public authorities to ensure that while exercising their function they are not discriminating directly or indirectly against any group or individual.

We have undertaken a detailed Equality Impact Assessment, which is attached to this report as Appendix A. Our assessment suggests that these proposals will have no detrimental impact on equality and diversity, however there is a group who may be impacted on financially, and we have put in place mitigations, which are set out in the Equalities Impact Assessment at Appendix A. Bradford Adult Social Care services, will continue to support the needs of all groups who are currently in receipt of support, and those who may need support in the future.

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Overview & Scrutiny Area:
Health and Social Care Overview and Scrutiny

1. SUMMARY

- 1.1 This paper provides feedback on the consultation on proposed changes to Adult Social Care non-residential charges with effect from 1 April 2023, which ended on 3 February 2023. These changes are in addition to the annual inflation uplift applied to charges from April each year.
- 1.2 This paper is seeking approval to the recommendation to proceed with the changes to Adult Social Care non-residential charges with effect from 1 April 2023.
- 1.3 A targeted consultation with people identified as being directly impacted was undertaken between 15th December 2022 and 3rd of February 2023. The data was refreshed on 30 November 2022. There were 483 people who use social care services who have been financially assessed as having the means to pay for the full cost of their care. An additional 25, were contacted during the consultation as people identified by our operational social work teams as likely to be entering the service in the coming months.
- 1.4 These changes are part of the preparatory work for the Government's adult social care charging reforms. They will aid with metering towards the proposed £86,000 'Cap on Care' for service users.

2. BACKGROUND

- 2.1 The Care Act 2014 is the primary legislation providing the single legal framework for charging for care and support, with the Care and Support Regulations governing the scope of 'local authorities' power to charge for meeting eligible needs and for financial assessments under the primary legislation.
- 2.2 Bradford's Non Residential Care Services Policy sets out the Councils approach to delivery of the requirements set out in the Care Act 2014.
- 2.3 Service users who have been financially assessed as having the means to pay, were consulted on changes to being charged the actual cost to the Council for their social care services, as opposed to a subsidised rate as at present. In the financial assessment any disability related costs are taken into account, these are the extra costs incurred by a service user to meet a specific need due to a medical condition or disability.
- 2.4 These proposed changes consulted on will impact directly on two cohorts of Adult Social Care service users:
 - i. those termed 'full-cost-payers' who have assets and savings above the current capital threshold of £23,250, there were 353 in this cohort as identified at 30 November 2022.

- ii. those who are not currently charged at the maximum level of their financially assessed contribution there were 130 in this cohort as identified at 30 November 2022.
- iii. a further 25 were identified as meeting the criteria set out in i (18) or ii (7) above during the course of the consultation and were consulted on the proposed changes.

2.5 The proposed changes to charging consulted on were:

2.5.1 Charge all 'Full-Cost Payers' (those with eligible needs and assets above the current capital limit of £23,250) the actual cost of their services.

- The legislation is clear when choosing to charge for care and support services an authority must **not** charge more than the cost it incurs in meeting the assessed needs of the service user.
- The Council had 353 services users classed as 'full-cost payers' as at 30 November 2022 who had asked the Council to commission their care, although as 'full-cost payers' or 'self-funders' the Council currently has no legal obligation to commission care on their behalf. A further 18 new services users were identified were identified as meeting the criteria set out in i above during the course of the consultation and were consulted on the proposed changes.
- These service users have asked the Council to commission their care, although as 'full-cost payers' or 'self-funders' the Council currently has no current legal obligation to commission care on their behalf unless they lack capacity.
- The Government has in principle stated that they will legislate to ensure we will have a duty to commission care on behalf of 'full-cost payers' and 'self – funders'.
- The actual cost is more than the nominal cost, by 36.8% for the majority of services based on the current level of charges and costs i.e. those for the 2022/23 financial year. The Council is effectively subsidising the cost of these services.

2.5.2 Charge all service users the actual cost of their services – this will impact on those not currently paying up to the assessed maximum contribution.

- The Council could not have differential charges for full-cost payers and service users who make a partial contribution to the cost of their care. It would therefore be necessary if considering the introduction of charges based on actual costs to apply this increase to all service users.
- The Council currently had 130 services users who make a contribution to the cost of their care but do not pay the 'full-cost', as at 30 November 2022. For 39 service users the increase would be capped at their maximum assessed contribution, for 91 it would be the full 36.81% increase.

- A further 7 new services users were identified as meeting the criteria set out in ii above during the course of the consultation and were consulted on the proposed changes

2.6 The consultation focused on the Council's proposals to charge the actual cost of these services from April 2023. While the Council has the powers to charge at the 'actual' cost given the percentage increase, it consulted with those directly impacted.

2.7 Table 1 sets out the consultation actions and timelines.

Table 1

	Activity	Description	Timescale
1	Formal consultation begins		13 th Dec 2022
2	Communication and information sharing with service users	<ul style="list-style-type: none"> • Letters sent out to the cohort of service users as at 30 November providing an explanation of the proposed changes and description of the impact on them as individuals. • The letter provided a contact email and phone for the service user or their carer/advocate to follow up for additional information. 	13 th Dec 2022
3	Communication and information sharing with community groups	<ul style="list-style-type: none"> • Information related to the changes was shared with community organisations who provide welfare advice support at the same letters were sent out. • This summarised the changes, and the implications for individuals and what support is available for them. • A briefing session was offered but not of organisations asked for a separate briefing session. 	13 th Dec 2022
4	Calls with service users	<ul style="list-style-type: none"> • HWB Financial Service staff took inbound calls, working through a set of questions with the service user or their representative. • HWB Financial Service staff made outbound calls to those service users who did not contact us directly, working through a set of questions with the service user or their representative. • Initial priority for outbound calls was those service users where the proposed change would be in excess of £50 per week. • For some service users due to the nature of their care need HWB Financial Service staff visited them in person to take them through the letter and the set of questions. • HWB Financial Service followed up those service users who did not responded to the 	19 th Dec to 3 rd Feb 2023

	Activity	Description	Timescale
		<p>letter or voice messages.</p> <ul style="list-style-type: none"> For any service user where it had not been possible to speak to them as they had not responded to the initial letter, calls or voicemails a follow up letter was sent on 30th January asking them to contact us. The calls confirmed the service user details including contact and service details, explained the proposed changes and asked them for their views. They were asked if they understood why they were classed as a self-funder, given the opportunity to provide update financial information as to their assets and capital, the offered financial assessment reviews, offered a review of any disability related expenditure, and offered benefit advice for them and their families, including completion and submission of any claims for benefits where relevant – the main one was Attendance Allowance. Checks were also made to ensure service users were in receipt of all of the cost of living support, universal and where appropriate the targeted support. Where the service user said they may need to reduce their hours if costs increased a workflow referral was made to the social work operational team for a care review. All responses as well as outcomes of financial, welfare benefit and care reviews were recorded in a detailed spreadsheet, which was reviewed daily. 	
5.	Formal consultation ends		3 rd Feb 23
6.	Consultation feedback	<ul style="list-style-type: none"> Report for Executive, summarising the findings from the consultation exercise and recommending change to the council's charging policy and procedure. Report received for decision at the Council's Executive on 21 February 2023 for implementation from April 2023. 	10 th Feb 23

2.8 Table 2 sets out the response rate from those service users or their representatives included in the consultation. There are 34 'full-cost payers' and 26 service users who max a contribution but have not reached their maximum contribution where no response to the various forms of contact has been received.

Table 2

Contact With Service User Or Their Representative	Service Users	Contact Made And Responses Recorded
Total Number of Service Users sent initial letter	483	423
Additional Service Users included in the consultation	25	25
Total Service User Numbers	508	448
Percentage	100%	81.20%

- 2.9 Responses to the consultation and questions while varied were focussed around the following themes, political, acceptance, timing in relation to the cost of living crisis and a couple of suggestions received so far saying that this should be phased.

Table 3 provides a representation of responses from service users or their families and Table 4 provides a representation of the reasons why this cohort of service users asked the Council to arrange their care.

Table 3

Service Area	Service	Summary of Comments
Older People	Homecare	Understands the reasons why and the mess with the government. Comment: "If you do have to increase charge please try and keep it as low as possible"
Older People	Homecare	Understood. "Will wait for a figure and see what I'm going to do in April" Believes charges too high as not doctors and nurses only provide a shower and help dress.
Older People	Homecare	"In our case no impact as such, will just be paying more"
Older People	Homecare	Doesn't feel it is fair but service user has dementia and needs the care will have to pay for it.
Older People	Homecare	Feeling strongly that it has gone from getting support with the cost of care to proposing no financial support whatsoever, cost of living is high for all and this is just another increase. The stress of caring and trying to manage finances is enormous to elderly people and client's families. Feels the Council is being cold in sending a letter out is poor way of communicating such a big change to financial situation. There is more to this than financial implications it's a very emotional highly stressful situation for a family when a loved one requires much needed care.
Older People	Homecare	Understood and commented "Sounds pretty fair but nobody likes to have increases. Yes I agree"

Service Area	Service	Summary of Comments
Older People	Homecare	Happy to make the increase in cost and no need to explain anything further.
Older People	Homecare	Feels unfair it is a big increase but care is essential and service user does need the care. If the proposal goes through may consider going privately but doesn't want to at this stage
Older People	Homecare	Son didn't feel he wanted to comment in full, but wanted to say: "it is unfortunate that help and care is needed in later life. Care enables people to stay in their home and his father wouldn't have been able to prepare a meal if he hadn't had his care package. The care package wasn't always brilliant but it worked and kept the client in family home longer at a cheaper cost. Care is an essential need for some people."
Older People	Homecare	Note the client did not have a financial assessment as chose to self-fund. The council should have taken a stepped approach in advance of this to get people used to the increases - done gradually over 2-3 year period. The increase is a ridiculous amount. The rise in service would be a 36% increase - yet attendance allowance and state pension are not increasing at this same level. This is awful for those on a fixed income where would they get the extra money from?
Older People	Homecare	Understands the argument in terms of allocative efficiency. Don't believe in the social cost of this.
Older People	Homecare	"BMDC are doing everything they can, The carers are alright - nice people"
Older People	Homecare	"Will we receive another letter about the outcome or just an invoice?"
Older People	Homecare	Just to comment that "we saved, made sensible choices but are penalised for it against those who squandered their money."
Older People	Homecare	"One could always be awkward, but the care we receive does help and we do not want to cancel it"
Older People	Homecare	Will have to take the increase in cost on the chin although feels it is a little disappointing
Physical Disability	Homecare	Cancelling, feels don't need the services anymore. Said had decided before consultation letter as service doesn't

Service Area	Service	Summary of Comments
		benefit them. A referral has been made for a care review.
Mental Health	Homecare	Service user feels care should be provided without being charged for. Service user is concerned as she has OCD she may need to cut back on things and is concerned she may need to cut back on the clothes she wears. She has also advised she interpreted the letter as though the increase was her current charge and the council charge.
Older People	Homecare	Understands the rationale why and couldn't afford privately provided services.

Table 4

Why did this cohort of users ask the Council to arrange their Care
The main driver was it was <i>arranged as part of discharge from hospital</i>
Many said <i>"I can remember it was quite a while ago"</i>
Previously arranged privately and private, wanted assistance with costings
Cheaper and via reablement through hospital
"Dad really struggled to find private affordable care and went through the Council from coming out of hospital"
Had care for some time now – client directly contacted Bradford (Council) for help with their Care
"recommended by someone i know"
Went through LA thinking that she would be a contribution payer but client has second property and is a full cost payer
"was arranged via the carer's resource, they helped me following a hospital stay – very helpful"
Easier at the time, when mum was in hospital, council provided
"Was in crisis situation at the time with Dad and Mum, went through BEST who were very good"
"Mainly after doing comparisons I was concerned that if Mum's capital money were to drop down, if we went through private channels we wouldn't have known how we would have dealt with that, so we continued through the Enablement Team"

Why did this cohort of users ask the Council to arrange their Care
"! had council for 6 weeks I went private but they were not turning up so decided to go back to the Council"
"it just seemed to be an easier move than sourcing outside care – we tried to do it private but it didn't work out as my father needed emergency care twice. Very happy with the Enablement team and found it was a seamless transition and more control!
Arranged during Covid through Social Care
Client commented she Didn't know how it worked at the time. And I got the impression from Social Worker that by arrange care through BMDC has some form of comeback. I'm on my own and feel that I need that security.
Because it was cheaper and felt it would be easier – didn't know where to start in getting a care company on board. Control as relationships in place between the providers and the Council. Not having to shop around for a provider, in a desperation situation that needed a quick response – they came through Enablement Service.
"Saved time in having to contact provers, it has taken some pressure off.
"We were guided by social services, they know which organisations have a certain reputation. We preferred to continue with providers known by the Council.
"Reduced rates was a consideration and ensuring a certain standard".
"I didn't know I could arrange it privately - a neighbour helped sort it out for me".
"was told by Social Worker it would be cheaper after going through the Enablement team"

3. OTHER CONSIDERATIONS

- 3.1 A financial review and a welfare benefits check was offered to all of those directly affected 41 welfare benefit reviews were requested and the process commenced for 30 financial assessment reviews. The majority of those deemed full-cost payers who had not previously shared the detail of their finances refused to do so this time merely stating that they have in excess of £23,250 in savings.

A Table 5 summaries the outcome of the Welfare Benefit Referrals made as at 3 February 2023. Where these were in progress at the end of consultation they will be completed asap.

Table 5

Welfare Benefit Referrals	Number	Comments
Receiving Maximum Benefit Entitlement	9	Offered to support claim when forms arrive either via phone or visits
Advised to Claim Attendance Allowance	9	
Still to be contacted following referral 2 & 3/02/2023	5	
Voicemail left	2	
Family member to call back	1	
Package of Care Transferred to another authority	1	Offered to support claim when forms arrive either via phone or visits
Advice on pension credit, carers allowance, council tax reductions	14	
TOTAL	41	

- 3.2 Social care package review was requested for any service user who stated they would be reducing their service as a consequence of the proposed change to increase in charges. The review focussed on whether their care needs had changed and what arrangements they would be putting in place to meet any needs not being met by a commissioned service. 31 referrals were made as at 3 February 2023, table 6 summaries the outcomes from those referrals.

Table 6

Actions
Ending Service - no unmet needs.
No longer a self-funder
Package of care being reduced no unmet needs
Reducing package of care no unmet needs & support being provided to apply for benefits.
Continuing with service.
Applying for Attendance Allowance
Entered Residential Care
Reassessment of needs being undertaken.
Home visit & Continuing Healthcare checklist completed.
Passed Away

- 3.3 Since the commencement of the consultation process there have been a changes within the cohort being consulted with these are set out in paragraph 3.4. This is to be expected as packages of care change for a variety of reasons care because the e.g. type of care changes due to a move to residential care, the requirement e.g. type of care and/or number of hours' changes or the care ceases.

- 17 service users have died
- 24 service users have ended their service or moved into long term care (residential or nursing)– there are a variety of reasons which are NOT related to the consultation.

- 25 new service users referred to in paragraph 2.4.

- 3.4 Although the consultation process ended on 3 February 2023 any outstanding actions will continue to be progressed e.g. re social work reviews, reassessments both financial and social care and welfare benefit support. The dedicated phone number and email number will remain live until the end of March in case there is further contact following the additional letter sent on 30 January 2023 to those who have not contacted the Council.

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 If the recommendation to implement the proposed changes to Adult Social Care Non-residential charges is accepted, these proposals could generate additional income of up to £1.250m per annum. This figure was based on the number of service users and their packages of care and support as at mid-August 2022. Packages can change for a variety of reasons; service user is no longer receiving a service or following a care review and/or a financial assessment review the number of hours and their financial assessed contribution could change. The latest income position will offset the latest revenue expenditure position and therefore will be similar to that reported to the Executive in December.
- 4.2 The budget proposals for 2023-24 included a proposed saving of £1.250m for 'Charging Adult Social Care Self Funders full cost (HW7)', pending the recommendations following the consultation.

5. LEGAL APPRAISAL

- 5.1 The changes are designed to comply with the Council's obligations under the Care Act 2014 and the Care and Support Statutory Guidance.

6. OTHER IMPLICATIONS

6.1 SUSTAINABILITY IMPLICATIONS

- 6.1.1 There are no sustainability implications.

6.2 GREENHOUSE GAS EMISSIONS IMPACTS

- 6.2.1 There are no Greenhouse gas emission implications.

6.3 COMMUNITY SAFETY IMPLICATIONS

- 6.3.1 There are no Community Safety Implications

6.4 HUMAN RIGHTS ACT

- 6.4.1 This decision could be considered to engage Article 8 (Right to Family and Private Life) and Article 14 (Protection from discrimination) and all steps available are being taken to ensure that the process has been compliant.

6.5 TRADE UNION

- 6.5.1 There are no implications.

6.6 WARD IMPLICATIONS

- 6.6.1 This proposed changes to Adult Social Care non –residential charges and consequential recommendations to accept these changes applies to all wards.

6.7 AREA COMMITTEE ACTION PLAN IMPLICATIONS

- 6.5.2 Not applicable to this report.

6.8 IMPLICATIONS FOR CHILDREN AND YOUNG PEOPLE

- 6.8.1 There are no direct implications for children and young people.

6.9 ISSUES ARISING FROM PRIVACY IMPACT ASSESSMENT

- 6.9.1 There are no direct implications arising from a privacy impact assessment.

7. NOT FOR PUBLICATION DOCUMENTS

None

8. OPTIONS

- 8.1 The Care Act 2014 sets out that individuals are expected to meet the full cost of their care unless their financial assessment sets out they need to make a lesser or a nil contribution towards their care. Under the Care Act 2014 legislation the Council has discretion to:
- Set a minimum income guarantee above the statutory rate.
 - Set charges as a percentage of service users maximum disposable income.
 - Apply a weekly maximum cap on charges.
- 8.2 All of these options would reduce income to the Council from Adult Social Care

charges which would have an adverse impact on spending. Non-statutory preventative services may need to be reduced which would be detrimental to those who rely on such services to remain healthy in their own homes and communities.

- 8.3 The option consulted means that people who have been financially assessed as having the ability to pay for their care do so in full, until such a time as their assets fall below the Government threshold. This will also maximise their contribution toward the social care cap proposed as a new reform by the Government.

9. RECOMMENDATIONS

- 9.1 That the Executive, following consideration of the issues raised within this report and the equality impact assessment set out in Appendix 1, authorises the Strategic Director for Health and Wellbeing to implement charges based on actual costs of the service for adult social care non-residential services to apply from 1 April 2023.

10. APPENDICES

Appendix A Equality Impact Assessment

11. BACKGROUND DOCUMENTS

- Care Act 2014.
- Care Act Care and Support Statutory Guidance.
- Regulations 2.3. Care and Support (Charging and Assessment of Resources) Regulations 2014 (SI 2014/2672) ("2014 Regulations").
- CBMDC Community Care Contribution Policy
- DHSC Draft Operational Guidance to Implement a Life time cap on care
- Full Costers/Not At Max Data spreadsheet